

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AES NEWENERGY, INC.	:	
	:	
Plaintiff,	:	Civil Action No. 02-CV-2733 (HB)
	:	
v.	:	
	:	
POWERWEB TECHNOLOGIES, INC.	:	
	:	
Defendant.	:	

PRAECIPE FOR ENTRY OF DEFAULT JUDGMENT

TO THE CLERK:

Plaintiff AES NewEnergy, Inc. ("AES NewEnergy") respectfully requests that the Clerk of the United States District Court for the Eastern District of Pennsylvania enter a default judgment against defendant Powerweb Technologies, Inc. ("Powerweb") in accordance with Rule 55 of the Federal Rules of Civil Procedure. In support of its request, AES NewEnergy avers:

1. This is an action by AES NewEnergy for damages of \$100,000, plus interest, arising from the breach of a written agreement by Powerweb, or in the alternative, for equitable relief in connection with Powerweb's unlawful and unjust refusal to return funds rightly belonging to AES NewEnergy.

2. AES NewEnergy informed Powerweb on September 18, 2000, that it expected a full refund of its \$100,000 after the parties contract expired on January 7, 2001. Declaration of George Drosdowich, Esquire ("Drosdowich Decl."), attached as Exhibit A, at ¶ 2.

3. AES NewEnergy filed an amended complaint on July 19, 2002.

4. Powerweb moved to dismiss the amended complaint on July 25, 2002.

5. The Court denied Powerweb's motion to dismiss the amended complaint on August 7, 2002. A copy of the Court's order is attached as Exhibit "B".

6. The Clerk faxed the Court's order denying Powerweb's motion to dismiss the amended complaint to counsel on August 8, 2002. See Civil Docket for Case #: 2:02-CV-02733, attached at Exhibit "C".

7. Pursuant to Rule 12(a)(4)(A), Powerweb's answer to the amended complaint was due on August 19, 2002.

8. Powerweb did not plead in response to the amended complaint on or before August 19, 2002.

9. Powerweb did not seek an extension of time to plead in response to the amended complaint.

10. Rule 55(a) provides for entry of default as follows:

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by [the Federal Rules of Civil Procedure] and the fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

11. Rule 55(b)(1) provides for the entry of judgment by default as follows:

By the Clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and is not an infant or incompetent person.

12. The amount now due to AES NewEnergy from Powerweb is \$100,000, plus interest accruing from January 7, 2001. Drosdowich Decl., at ¶ 3.

13. Simple interest of six percent per annum on \$100,000 from January 7, 2001, until today amounts to \$ \$9,720. Drosdowich Decl., at ¶ 4.

WHEREFORE, AES NewEnergy respectfully requests that the Clerk enter a default against Powerweb pursuant to Rule 55(a), and a default judgment against Powerweb in the amount of \$109,720, pursuant to Rule 55(b)(1).

Respectfully,

Matthew A. White
Joel M. Sweet
Attorneys for Plaintiff, AES NewEnergy, Inc.

OF COUNSEL:
WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP
22nd Floor, 1650 Arch Street
Philadelphia, Pennsylvania 19102-2097
(215) 977-2000

Dated: August 22, 2002

CERTIFICATE OF SERVICE

I, Joel M. Sweet, certify that on August 22, 2002, I caused a true and correct copy of
Praeipie For Entry of Default Judgment to be served by first class mail upon:

William Matthews, Esquire
SAUL EWING LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102-2186

Joel M. Sweet

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AES NEWENERGY, INC.

Plaintiff,

v.

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Defendant.

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Civil Action No. 02-CV-2733

ORDER

AND NOW, this ____ day of _____, 2002, upon plaintiff AES NewEnergy, Inc.'s Praecept for Entry of Default Judgment, it is **ORDERED** that default is entered against defendant Powerweb Technologies, Inc. It is **FURTHER ORDERED** that default judgment is entered against defendant Powerweb Technologies, Inc. in the amount of \$109,720, plus costs.

Clerk, U.S.D.C., Eastern District of Pennsylvania